

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 576

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, AMENDING CITY ORDINANCE PROVISIONS RELATED TO THE BUSINESS AND OCCUPATION TAX AND THE CONFIDENTIALITY OF CITY TAX RECORDS, AS SET FORTH IN CHAPTERS 3.06 AND 3.11 OF THE BURIEN MUNICIPAL CODE

WHEREAS, state law authorizes municipalities to impose a business and occupation (B&O) tax on business activities within their jurisdiction, provided that any ordinance imposing B&O taxes must be consistent with Chapter 35.102 RCW and with the model ordinance promulgated pursuant thereto by the Association of Washington Cities (AWC); and

WHEREAS, effective January 1, 2008, the City of Burien adopted its B&O tax ordinance consistent with the model B&O tax ordinance promulgated by AWC, which ordinance is codified as Chapter 3.11 of the Burien Municipal Code; and

WHEREAS, the model ordinance has been revised by AWC to comply with the State Legislature's revisions to Chapter 35.102 RCW, and the model ordinance revisions must be adopted by all cities imposing a B&O tax with an effective date of January 1, 2013; and

WHEREAS, AWC is also recommending that cities update the administrative provision related to the confidentiality of city tax records;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 3.11 of the Burien Municipal Code is hereby amended by amending BMC 3.11.030, 3.11.060, and 3.11.077 to read as follows:

3.11.030 Definitions.

In construing the provisions of this chapter, the following definitions shall be applied. Words in the singular number shall include the plural, and the plural shall include the singular.

"Business" includes all activities engaged in with the object of gain, benefit or advantage to the taxpayer or to another person or class, directly or indirectly.

“Business and occupation tax” or “gross receipts tax” means a tax imposed on or measured by the value of products, the gross income of the business or the gross proceeds of sales, as the case may be, and that is the legal liability of the business.

“Commercial or industrial use” means the following uses of products, including byproducts, by the extractor or manufacturer thereof:

- (a) Any use as a consumer; and
- (b) The manufacturing of articles, substances or commodities.

“Consumer” means the following:

(a) Any person who purchases, acquires, owns, holds or uses any tangible or intangible personal property irrespective of the nature of the person’s business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct or decorate real or personal property of or for a consumer other than for the purpose of:

(i) Resale as tangible or intangible personal property in the regular course of business;

(ii) Incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing or decorating such real or personal property of or for consumers;

(iii) Incorporating such property as an ingredient or component of a new product or as a chemical used in processing a new product when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new product; or

(iv) Consuming the property in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon;

(b) Any person engaged in any business activity taxable under BMC

[3.11.050](#)(1)(g);

(c) Any person who purchases, acquires or uses any competitive telephone service as herein defined, other than for resale in the regular course of business;

- (d) Any person who purchases, acquires or uses any personal, business or professional service defined as a retail sale or retail service in this section, other than for resale in the regular course of business;
- (e) Any person who is an end user of software;
- (f) Any person engaged in the business of public road construction in respect to tangible personal property, when that person incorporates the tangible personal property as an ingredient or component of a publicly owned street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel or trestle by installing, placing or spreading the property in or upon the right-of-way of a publicly owned street, place, road, highway, easement, bridge, tunnel or trestle or in or upon the site of a publicly owned mass public transportation terminal or parking facility;
- (g) Any person who is an owner, lessee or has the right of possession to or an easement in real property which is being constructed, repaired, decorated, improved or otherwise altered by a person engaged in business;
- (h) Any person who is an owner, lessee or has the right of possession to personal property which is being constructed, repaired, improved, cleaned, imprinted or otherwise altered by a person engaged in business;
- (i) Any person engaged in government contracting. Any such person shall be a consumer within the meaning of this definition in respect to tangible personal property incorporated into, installed in, or attached to such building or other structure by such person.

Nothing contained in this or any other subsection of this section shall be construed to modify any other definition of “consumer.”

“Delivery” means the transfer of possession of tangible personal property between the seller and the buyer or the buyer’s representative. Delivery to an employee of a buyer is considered delivery to the buyer. Transfer of possession of tangible personal property occurs when the buyer or the buyer’s representative first takes physical control of the property or exercises dominion and control over the property. “Dominion and control” means the buyer has the ability to put the property to the buyer’s own purposes. It means the buyer or the buyer’s representative has made the final decision to accept or reject the property, and the seller has no further right to possession of the property and the buyer has no right to return the property to the seller, other than under a warranty contract. A buyer does not exercise dominion and control over tangible personal property merely by arranging for shipment of the property from the seller to itself. A buyer’s representative is a person, other than an employee of the buyer, who is authorized in writing by the buyer

to receive tangible personal property and take dominion and control by making the final decision to accept or reject the property. Neither a shipping company nor a seller can serve as a buyer's representative. It is immaterial where the contract of sale is negotiated or where the buyer obtains title to the property. Delivery terms and other provisions of the Uniform Commercial Code (RCW Title [62A](#)) do not determine when or where delivery of tangible personal property occurs for purposes of taxation.

"Digital automated service," "digital code," and "digital goods" have the same meaning as in RCW 82.04.192.

"Digital products" means digital goods, digital codes, digital automated services, and the services described in RCW 82.04.050(2)(g) and (6)(b).

"Director" means the finance and administrative services director of the city or any officer, agent or employee of the city designated to act on the director's behalf.

"Eligible gross receipts tax" means a tax which:

- (a) Is imposed on the act or privilege of engaging in business activities within BMC [3.11.050](#); and
- (b) Is measured by the gross volume of business, in terms of gross receipts, and is not an income tax or value added tax; and
- (c) Is not, pursuant to law or custom, separately stated from the sales price; and
- (d) Is not a sales or use tax, business license fee, franchise fee, royalty or severance tax measured by volume or weight, or concession charge, or payment for the use and enjoyment of property, property right or a privilege; and
- (e) Is a tax imposed by a local jurisdiction, whether within or without the state of Washington, and not by a country, state, province or any other nonlocal jurisdiction above the county level.

Engaging in Business.

- (a) The term "engaging in business" means commencing, conducting or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.
- (b) This definition sets forth examples of activities that constitute engaging in business in the city, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimus business activities in the city without having to register and obtain a business license or pay city

business and occupation taxes. The activities listed in this definition are illustrative only and are not intended to narrow the definition of “engaging in business” in subsection (a) of this definition. If an activity is not listed, whether it constitutes engaging in business in the city shall be determined by considering all the facts and circumstances and applicable law.

(c) Without being all-inclusive, any one of the following activities conducted within the city by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf, constitutes engaging in business and requires a person to register and obtain a business license:

- (i) Owning, renting, leasing, maintaining or having the right to use, or using, tangible personal property, intangible personal property or real property permanently or temporarily located in the city.
- (ii) Owning, renting, leasing, using or maintaining an office, place of business or other establishment in the city.
- (iii) Soliciting sales.
- (iv) Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.
- (v) Providing technical assistance or service, including quality control, product inspections, warranty work or similar services on or in connection with tangible personal property sold by the person or on its behalf.
- (vi) Installing, constructing or supervising installation or construction of real or tangible personal property.
- (vii) Soliciting, negotiating or approving franchise, license or other similar agreements.
- (viii) Collecting current or delinquent accounts.
- (ix) Picking up and transporting tangible personal property, solid waste, construction debris or excavated materials.
- (x) Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.

(xi) Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, and veterinarians.

(xii) Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.

(xiii) Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the city, acting on its behalf or for customers or potential customers.

(xiv) Investigating, resolving or otherwise assisting in resolving customer complaints.

(xv) In-store stocking or manipulating products or goods sold to and owned by a customer, regardless of where sale and delivery of the goods took place.

(xvi) Delivering goods in vehicles owned, rented, leased, used or maintained by the person or another acting on its behalf.

(xvii) Accepting or executing a contract with the city, irrespective of whether goods or services are delivered within or without the city, or whether the person's office or place of business is within or without the city.

(d) If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the city but the following, it need not register and obtain a business license and pay tax:

(i) Meeting with suppliers of goods and services as a customer.

(ii) Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.

(iii) Attending meetings, such as board meetings, retreats, seminars, and conferences or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director member or attendee engaging in business such as a member of a board of directors who attends a board meeting.

(iv) Renting tangible or intangible property as a customer when the property is not used in the city.

(v) Attending, but not participating in, a trade show or multiple vendor events. Persons participating at a trade show shall review the city's trade show or multiple vendor event ordinances.

(vi) Conducting advertising through the mail.

(vii) Soliciting sales by phone from a location outside the city.

(e) A seller located outside the city merely delivering goods into the city by means of common carrier is not required to register and obtain a business license; provided, that it engages in no other business activities in the city. Such activities do not include those in subsection (d) of this definition.

The city expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the tax under the law and the constitutions of the United States and the state of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus-generating contact or subsequent contacts.

“Extracting” is the activity engaged in by an extractor and is reportable under the extracting classification.

“Extractor” means every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use, mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product; or fells, cuts or takes timber, Christmas trees, other than plantation Christmas trees, or other natural products; or takes fish, shellfish, or other sea or inland water foods or products. “Extractor” does not include persons performing under contract the necessary labor or mechanical services for others; or persons meeting the definition of farmer.

“Extractor for hire” means a person who performs under contract necessary labor or mechanical services for an extractor.

“Gross income of the business” means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on

account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes or any other expense whatsoever paid or accrued and without any deduction on account of losses.

“Gross proceeds of sales” means the value proceeding or accruing from the sale of tangible personal property, digital goods, digital codes, digital automated services, or for other services rendered, without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes or any other expense whatsoever paid or accrued and without any deduction on account of losses.

“In this city” or “within this city” includes all federal areas lying within the corporate city limits of the city.

Manufacturer, To Manufacture.

(a) “Manufacturer” means every person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or for commercial or industrial use from the person’s own materials or ingredients any products. When the owner of equipment or facilities furnishes, or sells to the customer prior to manufacture, materials or ingredients equal to less than 20 percent of the total value of all materials or ingredients that become a part of the finished product, the owner of the equipment or facilities will be deemed to be a processor for hire, and not a manufacturer. (A business not located in this city that is the owner of materials or ingredients processed for it in this city by a processor for hire shall be deemed to be engaged in business as a manufacturer in this city.)

(b) “To manufacture” means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials or ingredients so that as a result thereof a new, different or useful product is produced for sale or commercial or industrial use, and shall include:

- (i) The production of special-made or custom-made articles;
- (ii) The production of dental appliances, devices, restorations, substitutes or other dental laboratory products by a dental laboratory or dental technician;
- (iii) Crushing and/or blending of rock, sand, stone, gravel or ore; and
- (iv) The production of articles for sale or for commercial or industrial use from raw materials or prepared materials by giving such materials, articles, and substances of trade or commerce new forms, qualities, properties or combinations including, but not limited to, such activities as making,

fabricating, processing, refining, mixing, slaughtering, packing, aging, curing, mild curing, preserving, canning, and the preparing and freezing of fresh fruits and vegetables.

“To manufacture” shall not include the production of digital goods or the production of computer software if the computer software is delivered from the seller to the purchaser by means other than tangible storage media, including the delivery by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

“Manufacturing” means the activity conducted by a manufacturer and is reported under the manufacturing classification.

Newspaper, Magazine, Periodical.

(a) “Newspaper” means a publication offered for sale regularly at stated intervals at least once a week and printed on newsprint in tabloid or broadsheet format folded loosely together without stapling, glue or any other binding of any kind.

(b) “Magazine” or “periodical” means any printed publication, other than a newspaper, issued and offered for sale regularly at stated intervals at least once every three months, including any supplement or special edition of the publication. Any publication meeting this definition qualifies regardless of its content.

“Nonprofit corporation or nonprofit organization” means a corporation or organization in which no part of the income can be distributed to its members, directors or officers and that holds a current tax exempt status as provided under Section 501(c)(3) of the Internal Revenue Code, as hereafter amended, or is specifically exempted from the requirement to apply for its tax exempt status under Section 501(c)(3) of the Internal Revenue Code, as hereafter amended. Where the term “nonprofit organization” is used, it is meant to include a nonprofit corporation.

“Office” or “place of business” means a fixed location or permanent facility where the regular business of the person is conducted and which is either owned by the person or over which the person exercises legal dominion and control. The regular business of the person is presumed conducted at a location:

(a) Whose address the person uses as its business mailing address;

(b) Where the place of primary use is shown on a telephone billing or a location containing a telephone line listed in a public telephone directory or other similar publication under the business name;

(c) Where the person holds itself out to the general public as conducting its regular business through signage or other means; and

(d) Where the person is required to obtain any appropriate state and local business license or registration unless they are exempted by law from such requirement.

A vehicle such as a pickup, van, truck, boat or other motor vehicle is not an office or place of business. A post office box is not an office or place of business. If a person has an office or place of business, the person's home is not an office or place of business unless it meets the criteria for office or place of business above. If a person has no office or place of business, the person's home or apartment within the city will be deemed the place of business.

"Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, limited liability company, association, society or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise and the United States or any instrumentality thereof.

"Precious metal bullion" means any precious metal which has been put through a process of smelting or refining, including, but not limited to, gold, silver, platinum, rhodium, and palladium, and which is in such state or condition that its value depends upon its contents and not upon its form. For purposes of this definition, "monetized bullion" means coins or other forms of money manufactured from gold, silver or other metals and heretofore, now or hereafter used as a medium of exchange under the laws of this state, the United States or any foreign nation, but does not include coins or money sold to be manufactured into jewelry or works of art.

"Processing for hire" means the performance of labor and mechanical services upon materials or ingredients belonging to others so that as a result a new, different or useful product is produced for sale or commercial or industrial use. A processor for hire is any person who would be a manufacturer if that person were performing the labor and mechanical services upon that person's own materials or ingredients. If a person furnishes, or sells to the customer prior to manufacture, materials or ingredients equal to 20 percent or more of the total value of all materials or ingredients that become a part of the finished product, the person will be deemed to be a manufacturer and not a processor for hire.

Product, Byproduct.

(a) “Product” means tangible personal property, including articles, substances or commodities created, brought forth, extracted or manufactured by human or mechanical effort.

(b) “Byproduct” means any additional product other than the principal or intended product, which results from extracting or manufacturing activities and which has a market value, without regard to whether or not such additional product was an expected or intended result of the extracting or manufacturing activities.

“Retail service” shall include the sale of or charge made for personal, business or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

(a) Amusement and recreation services including but not limited to golf, pool, billiards, skating, bowling, swimming, bungee jumping, ski lifts and tows, basketball, racquet ball, handball, squash, tennis, batting cages, day trips for sightseeing purposes, and others, when provided to consumers. Amusement and recreation services also include the provision of related facilities such as basketball courts, tennis courts, handball courts, swimming pools, and charges made for providing the opportunity to dance. The term “amusement and recreation services” does not include instructional lessons to learn a particular activity such as tennis lessons, swimming lessons or archery lessons;

(b) Abstract, title insurance, and escrow services;

(c) Credit bureau services;

(d) Automobile parking and storage garage services;

(e) Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers, and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

(f) Service charges associated with tickets to professional sporting events; and

(g) The following personal services: physical fitness services, tanning salon services, tattoo parlor services, steam bath services, Turkish bath services, escort services, and dating services;

(h) The term shall also include the renting or leasing of tangible personal property to consumers and the rental of equipment with an operator.

“Retailing” means the activity of engaging in making sales at retail and is reported under the retailing classification.

“Royalties” means compensation for the use of intangible property, such as copyrights, patents, licenses, franchises, trademarks, tradenames, and similar items.

Sale at Retail, Retail Sale.

(a) “Sale at retail” or “retail sale” means every sale of tangible personal property (including articles produced, fabricated or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct or decorate real or personal property of or for consumers, other than a sale to a person who presents a resale certificate under RCW 82.04.470 and who:

(i) Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person; or

(ii) Installs, repairs, cleans, alters, imprints, improves, constructs or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

(iii) Purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

(iv) Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(v) Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a “sale at retail” or “retail sale” even though such property is resold or utilized as

provided in subsection (a)(i), (ii), (iii), (iv) or (v) of this definition following such use; or

(vi) Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (g) of this definition, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.

(b) "Sale at retail" or "retail sale" also means every sale of tangible personal property to persons engaged in any business activity which is taxable under BMC 3.11.050(1)(g).

(c) "Sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:

(i) The installing, repairing, cleaning, altering, imprinting or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of coin-operated laundry facilities when such facilities are situated in an apartment house, rooming house or mobile home park for the exclusive use of the tenants thereof, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;

(ii) The constructing, repairing, decorating or improving of new or existing buildings or other structures under, upon or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;

(iii) The charge for labor and services rendered in respect to constructing, repairing or improving any structure upon, above or under any real property owned by an owner who conveys the property by title, possession or any other means to the person performing such construction, repair or improvement for the purpose of performing such construction, repair or improvement and the property is then reconveyed by title, possession or any other means to the original owner;

(iv) The sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; and for purposes of this definition the term “janitorial services” shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term “janitorial services” does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

(v) The sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under Chapter 82.16 RCW;

(vi) The sale of and charge made for the furnishing of lodging and all other services, except telephone business and cable service, by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it shall be presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same;

(vii) The installing, repairing, altering, or improving of digital goods for consumers;

(viii) The sale of or charge made for tangible personal property, labor and services to persons taxable under subsections (c)(i), (ii), (iii), (iv), (v), ~~and (vi)~~, and (vii) of this definition when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a “sale at retail” or “retail sale” even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection shall be construed to modify subsection (a) of this definition and nothing contained in subsection (a) of this definition shall be construed to modify this subsection.

(d) “Sale at retail” or “retail sale” shall also include the providing of competitive telephone service to consumers.

(e) “Sale at retail” or “retail sale” shall also include the sale of ~~canned~~prewritten software other than a sale to a person who presents a resale certificate under RCW

82.04.470, regardless of the method of delivery to the end user, ~~but shall~~ .

(i) For purposes of this subsection (e), the sale of the sale of prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten computer software, regardless of how the sale may characterized by the vendor or by the purchaser.

(ii) The term “sale at retail” or “retail sale” does not include the sale of or charge made for custom software or the customization of ~~earned~~ prewritten software.

(iii) The term also includes the charge made to consumers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis; provided that such service includes the right to access and use prewritten software to perform data processing; and provided further that “data processing” means the systematic performance of operations on data to extract the required information in an appropriate form or to convert the data to usable information, including check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities.

(f) “Sale at retail” or “retail sale” shall also include the sale of or charge made for labor and services rendered in respect to the building, repairing or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel or trestle which is owned by a municipal corporation or political subdivision of the state, the state of Washington, or by the United States, and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind (public road construction).

(g) “Sale at retail” or “retail sale” shall also include the sale of or charge made for an extended warranty to a consumer. For purposes of this definition, “extended warranty” means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term “extended warranty” does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is

included in the sales price of the tangible personal property covered by the agreement.

(h) "Sale at retail" or "retail sale" shall also include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating or improving of new or existing buildings or other structures under, upon or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to Chapter 35.82 RCW, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation (government contracting).

(i) "Sale at retail" or "retail sale" shall not include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor shall the term include the sale of services or charges made for cleaning up for the United States or its instrumentalities radioactive waste and other byproducts of weapons production and nuclear research and development. (This should be reported under the service and other classification.)

(j) "Sale at retail" or "retail sale" shall not include the sale of or charge made for labor and services rendered for environmental remedial action. (This should be reported under the service and other classification.)

(k) "Sale at retail" or "retail sale" shall also include the following sales to consumers of digital goods, digital codes, and digital automated services:

(i) Sales in which the seller has granted the purchaser the right of permanent use;

(ii) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(iii) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(iv) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

A retail sale of digital goods, digital codes, or digital automated services under this subsection (k) includes any services provided by the seller exclusively in connection with the digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

For purposes of this subsection, "permanent" means perpetual or for an indefinite

or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.

(l) “Sale at retail” or “retail sale” shall also include the installing, repairing, altering, or improving of digital goods for consumers.

“Sale at wholesale” or “wholesale sale” means any sale of tangible personal property, digital goods, digital codes, digital automated services, prewritten computer software, or services described in subsection (e)(iii), which is not a retail sale, and any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property and retail services, if such charge is expressly defined as a retail sale or retail service when rendered to or for consumers. Sale at wholesale also includes the sale of telephone business to another telecommunications company as defined in RCW 80.04.010 for the purpose of resale, as contemplated by RCW 35.21.715.

Sale, Casual or Isolated Sale.

(a) “Sale” means any transfer of the ownership of, title to, or possession of property for a valuable consideration and includes any activity classified as a “sale at retail,” “retail sale,” or “retail service.” It includes renting or leasing, conditional sale contracts, leases with option to purchase, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It also includes the furnishing of food, drink or meals for compensation whether consumed upon the premises or not.

(b) “Casual or isolated sale” means a sale made by a person who is not engaged in the business of selling the type of property involved on a routine or continuous basis.

Services. No definition.

Software, Prewritten Software, Custom Software, Customization of Canned Software, Master Copies, Retained Rights.

(a) “Prewritten software” or “canned software” means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software.

Prewritten computer software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than such purchaser. Where a person modifies or enhances computer software of which such person is not the author or creator, the person shall be deemed to be the author or creator only of the person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; however, where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software.

(b) "Custom software" means software created for a single person.

(c) "Customization of canned software" means any alteration, modification or development of applications using or incorporating canned software to specific individualized requirements of a single person. Customization of canned software includes individualized configuration of software to work with other software and computer hardware but does not include routine installation. Customization of canned software does not change the underlying character or taxability of the original canned software.

(d) "Master copies" of software means copies of software from which a software developer, author, inventor, publisher, licensor, sublicensor or distributor makes copies for sale or license. The software encoded on a master copy and the media upon which the software resides are both ingredients of the master copy.

(e) "Retained rights" means any and all rights, including intellectual property rights such as those rights arising from copyrights, patents, and trade secret laws, that are owned or are held under contract or license by a software developer, author, inventor, publisher, licensor, sublicensor or distributor.

(f) "Software" means any information, program or routine, or any set of one or more programs, routines or collections of information used, or intended for use, to convey information that causes one or more computers or pieces of computer-related peripheral equipment, or any combination thereof, to perform a task or set of tasks. "Software" includes the associated documentation, materials or ingredients, regardless of the media upon which that documentation is provided, that describe the code and its use, operation, and maintenance and that typically is delivered with the code to the consumer. All software is classified as either canned or custom.

“Taxpayer” means any “person,” as herein defined, required to have a business license under this chapter or liable for the collection of any tax or fee under this chapter, or who engages in any business or who performs any act for which a tax or fee is imposed by this chapter.

Value of Products.

(a) The value of products, including byproducts, extracted or manufactured, shall be determined by the gross proceeds derived from the sale thereof whether such sale is at wholesale or at retail, to which shall be added all subsidies and bonuses received from the purchaser or from any other person with respect to the extraction, manufacture or sale of such products or byproducts by the seller.

(b) Where such products, including byproducts, are extracted or manufactured for commercial or industrial use; and where such products, including byproducts, are shipped, transported or transferred out of the city, or to another person, without prior sale or are sold under circumstances such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale; the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers, plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the extraction, manufacture or sale of such products. In the absence of sales of similar products as a guide to value, such value may be determined upon a cost basis. In such cases, there shall be included every item of cost attributable to the particular article or article extracted or manufactured, including direct and indirect overhead costs. The director may prescribe rules for the purpose of ascertaining such values.

(c) Notwithstanding subsection (b) of this definition, the value of a product manufactured or produced for purposes of serving as a prototype for the development of a new or improved product shall correspond to (i) the retail selling price of such new or improved product when first offered for sale; or (ii) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

“Value proceeding or accruing” means the consideration, whether money, credits, rights or other property expressed in terms of money, a person is entitled to receive or which is actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer.

“Wholesaling” means engaging in the activity of making sales at wholesale, and is reported under the wholesaling classification. [Ord. 482 § 2, 2007]

3.11.060 — ~~Doing business with the City.~~

~~Except where such a tax is otherwise levied and collected by the City from such person, there is hereby levied a tax on the privilege of accepting or executing a contract with the City. Such tax shall be levied and collected whether goods or services are delivered within or without the City and whether or not such person has an office or place of business within or without the City.~~

~~Except as provided in BMC 3.11.077, as to such persons the amount of tax shall be equal to the gross contract price multiplied by the rate under BMC 3.11.050 that would otherwise apply if the sale or service were taxable pursuant to that section.~~

3.11.077 Allocation and apportionment of income when activities take place in more than one jurisdiction.

Effective January 1, 2008, gross income, other than persons subject to the provisions of Chapter 82.14A RCW, shall be allocated and apportioned as follows:

(1) Gross income derived from all activities other than those taxed as service or royalties under BMC 3.11.050(1)(g) shall be allocated to the location where the activity takes place.

(2) In the case of sales of tangible personal property, the activity takes place where delivery to the buyer occurs.

(3) In the case of sales of digital products, the activity takes place where delivery to the buyer occurs. The delivery of digital products will be deemed to occur at:

(a) The seller's place of business if the purchaser receives the digital product at the seller's place of business;

(b) If not received at the seller's place of business, the location where the purchaser or the purchaser's donee, designated as such by the purchaser, receives the digital product, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller;

(c) If the location where the purchaser or the purchaser's donee receives the digital product is not known, the purchaser's address maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;

(d) If no address for the purchaser is maintained in the ordinary course of the seller's business, the purchaser's address obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith; and

(e) If no address for the purchaser is obtained during the consummation of the sale, the address where the digital good or digital code is first made available for transmission by the seller or the address from which the digital automated service or service described in RCW 82.04.050 (2)(g) or (6)(b) was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold.

(4) If none of the methods in BMC 3.11.077 (3) for determining where the delivery of digital products occurs are available after a good faith effort by the taxpayer to apply the methods provided in BMC 3.11.077 (3)(a) through (e), then the city and the taxpayer may mutually agree to employ any other method to effectuate an equitable allocation of income from the sale of digital products. The taxpayer will be responsible for petitioning the city to use an alternative method under this subsection (4). The city may employ an alternative method for allocating the income from the sale of digital products if the methods provided in BMC 3.11.077 (3)(a) through (e) are not available and the taxpayer and the city are unable to mutually agree on an alternative method to effectuate an equitable allocation of income from the sale of digital products.

(5) For purposes of BMC 3.11.077 (3)(a) through (e), "receive" has the same meaning as in RCW 82.32.730.

(36) Gross income derived from activities taxed as services and other activities taxed under BMC 3.11.050(1)(g) shall be apportioned to the City by multiplying apportionable income by a fraction, the numerator of which is the payroll factor plus the service-income factor and the denominator of which is two.

(a) The payroll factor is a fraction, the numerator of which is the total amount paid in the City during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period. Compensation is paid in the City if:

- (i) The individual is primarily assigned within the City;
- (ii) The individual is not primarily assigned to any place of business for the tax period and the employee performs 50 percent or more of his or her service for the tax period in the City; or
- (iii) The individual is not primarily assigned to any place of business for the tax period, the individual does not perform 50 percent or more of his or her service in any city and the employee resides in the City.

(b) The service income factor is a fraction, the numerator of which is the total service income of the taxpayer in the City during the tax period, and the denominator of which is the total service income of the taxpayer everywhere during the tax period. Service income is in the City if:

- (i) The customer location is in the City; or
- (ii) The income-producing activity is performed in more than one

location and a greater proportion of the service-income-producing activity is performed in the City than in any other location, based on costs of performance, and the taxpayer is not taxable at the customer location; or

(iii) The service-income-producing activity is performed within the City, and the taxpayer is not taxable in the customer location.

(c) If the allocation and apportionment provisions of this subsection do not fairly represent the extent of the taxpayer's business activity in the City or cities in which the taxpayer does business, the taxpayer may petition for or the tax administrators may jointly require, in respect to all or any part of the taxpayer's business activity, that one of the following methods be used jointly by the cities to allocate or apportion gross income, if reasonable:

(i) Separate accounting;

(ii) The use of a single factor;

(iii) The inclusion of one or more additional factors that will fairly represent the taxpayer's business activity in the City; or

(iv) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(47) The definitions in this subsection apply throughout this section.

(a) "Apportionable income" means the gross income of the business taxable under the service classifications of a city's gross receipts tax, including income received from activities outside the City if the income would be taxable under the service classification if received from activities within the City, less any exemptions or deductions available.

(b) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to individuals for personal services that are or would be included in the individual's gross income under the federal internal revenue code.

(c) "Individual" means any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.

(d) "Customer location" means the city or unincorporated area of a county where the majority of the contacts between the taxpayer and the customer take place.

(e) "Primarily assigned" means the business location of the taxpayer where the individual performs his or her duties.

(f) "Service-taxable income" or "service income" means gross income of the business subject to tax under either the service or royalty classification.

(g) "Tax period" means the calendar year during which tax liability is accrued. If taxes are reported by a taxpayer on a basis more frequent than once per year, taxpayers shall calculate the factors for the previous calendar year for reporting in the current calendar year and correct the reporting for the previous

year when the factors are calculated for that year, but not later than the end of the first quarter of the following year.

(h) “Taxable in the customer location” means either that a taxpayer is subject to a gross receipts tax in the customer location for the privilege of doing business, or that the government where the customer is located has the authority to subject the taxpayer to gross receipts tax regardless of whether, in fact, the government does so.

(58) Assignment or apportionment of revenue under this Section shall be made in accordance with and in full compliance with the provisions of the interstate commerce clause of the United States Constitution where applicable.

Section 2. Chapter 3.06 of the Burien Municipal Code is hereby amended by amending BMC 3.06.200 to read as follows:

3.06.200 Public disclosure - Confidentiality - Information sharing.

(1) For purposes of this section:

(a) “Disclose” means to make known to any person in any manner whatever a return or tax information.

(b) “Tax information” means:

(i) A taxpayer’s identity;

(ii) The nature, source, or amount of the taxpayer’s income, payments, receipts, deductions, exemption, credits, assets, liability, net worth, tax liability deficiencies, over assessments, or tax payments, whether taken from the taxpayer’s books and records or any other source;

(iii) Whether the taxpayer’s return was, is being, or will be examined or subject to other investigation or processing; or

(iv) Other data received by, recorded by, prepared by, or provided to the ~~((director))~~city with respect to the determination or the existence, or possible existence, of liability, or the amount thereof, of a person under Title 3 BMC for a tax, penalty, interest, fine, forfeiture, or other imposition, or offense. However, ((a taxpayer.

~~PROVIDED, That tax information shall not include~~ data, material, or documents that do not disclose information related to a specific or identifiable taxpayer do not constitute tax information under this section. Nothing in this chapter requires any person possessing data, material, or documents made confidential and privileged by this section to delete information from such data, material or documents so as to permit its disclosure.

(c) “City agency” means every city office, department, division, bureau, board, commission, or other city agency.

(d) "Taxpayer identity" means the taxpayer's name, address, telephone number, registration number, or any combination thereof, or any other information disclosing the identity of the taxpayer.

(2) Returns and tax information are confidential and privileged, and except as authorized by this section, neither the director nor any other person may disclose any return or tax information.

(3) This section does not prohibit the director from:

(a) Disclosing such return or tax information in a civil or criminal judicial proceeding or an administrative proceeding:

(i) In respect of any tax imposed under Title 3 BMC, if the taxpayer or its officer or other person liable under this title is a party in the proceeding; or

(ii) In which the taxpayer about whom such return or tax information is sought and another state agency are adverse parties in the proceeding.

(b) Disclosing, subject to such requirements and conditions as the director prescribes by rules adopted pursuant to BMC 3.06.160, such return or tax information regarding a taxpayer to such taxpayer or to such person or persons as that taxpayer may designate in a request for, or consent to, such disclosure, or to any other person, at the taxpayer's request, to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, tax information not received from the taxpayer must not be so disclosed if the director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the taxpayer or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the department that provides for the reciprocal exchange of information with other government agencies which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the taxpayer by the order of any court;

(c) Publishing statistics so classified as to prevent the identification of particular returns or reports or items thereof;

(d) Disclosing such return or tax information, for official purposes only, to the city manager or city attorney, or to any city agency, or to any member of the city council or their authorized designees dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions;

(e) Permitting the city's records to be audited and examined by the proper state officer, his or her agents and employees;

(f) Disclosing any such return or tax information to a peace officer as defined in RCW 9A.04.110 or county prosecuting attorney, for official purposes. The disclosure may be made only in response to a search warrant, subpoena, or other court order, unless the disclosure is for the purpose of criminal tax enforcement. A peace officer or county prosecuting attorney who receives the return or tax information may disclose that return or tax information only for use in the investigation and a related court proceeding, or in the court proceeding for which the return or tax information originally was sought or where otherwise allowed to be disclosed under this section;

(g) Disclosing any such return or tax information to the proper officer of the internal revenue service of the United States, the Canadian government or provincial governments of Canada, or to the proper officer of the tax department of any state or city or town or county, for official purposes, but only if the statutes of the United States, Canada or its provincial governments, or of such other state or city or town or county, as the case may be, grants substantially similar privileges to the proper officers of the city;

(h) Disclosing any such return or tax information to the United States department of justice, including the bureau of alcohol, tobacco, firearms and explosives, the department of defense, the immigration and customs enforcement and the customs and border protection agencies of the United States department of homeland security, the United States coast guard, the alcohol and tobacco tax and trade bureau of the United States department of treasury, and the United States department of transportation, or any authorized representative of these federal agencies or their successors, for official purposes;

(i) Publishing or otherwise disclosing the text of a written determination designated by the director as a precedent pursuant to RCW 82.32.410;

(j) Disclosing, in a manner that is not associated with other tax information, the taxpayer name, entity type, business address, mailing address, revenue tax registration numbers and the active/closed status of such registrations, state or local business license registration identification and the active/closed status and effective dates of such licenses, reseller permit numbers and the expiration date and status of such permits, North American industry classification system or standard industrial classification code of a taxpayer, and the dates of opening and closing of business. Except that this subsection may not be construed as giving authority to the city or any recipient to give, sell, or provide access to any list of taxpayers for any commercial purpose;

(k) Disclosing such return or tax information that is also maintained by another Washington state or local governmental agency as a public record available for

inspection and copying under the provisions of Chapter 42.56 RCW or is a document maintained by a court of record and is not otherwise prohibited from disclosure;

(l) Disclosing such return or tax information to the United States department of agriculture, or successor department or agency, for the limited purpose of investigating food stamp fraud by retailers;

(m) Disclosing to a financial institution, escrow company, or title company, in connection with specific real property that is the subject of a real estate transaction, current amounts due the city for a filed tax warrant, judgment, or lien against the real property;

(n) Disclosing to a person against whom the department has asserted liability as a successor under BMC 3.06.130 return or tax information pertaining to the specific business of the taxpayer to which the person has succeeded;

(o) Disclosing real estate excise tax affidavit forms filed under Chapter 3.20 BMC in the possession of the city, including real estate excise tax affidavit forms for transactions exempt or otherwise not subject to tax;

(p) Disclosing such return or tax information to the court or hearing examiner in respect to the city's application for a subpoena, if there is probable cause to believe that the records in possession of a third party will aid the director in connection with his/her official duties under this title or a civil or criminal investigation.

(4) (a) The director may disclose return or taxpayer information to a person under investigation or during any court or administrative proceeding against a person under investigation as provided in this subsection (4). The disclosure must be in connection with the director's official duties under this title, or a civil or criminal investigation. The disclosure may occur only when the person under investigation and the person in possession of data, materials, or documents are parties to the return or tax information to be disclosed. The director may disclose return or tax information such as invoices, contracts, bills, statements, resale or exemption certificates, or checks. However, the director may not disclose general ledgers, sales or cash receipt journals, check registers, accounts receivable/payable ledgers, general journals, financial statements, expert's workpapers, income tax returns, state tax returns, tax return workpapers, or other similar data, materials, or documents.

(b) Before disclosure of any tax return or tax information under this subsection (4), the director must, through written correspondence, inform the person in possession of the data, materials, or documents to be disclosed. The correspondence must clearly identify the data, materials, or documents to be disclosed. The director may not disclose any tax return or tax information under

this subsection (4) until the time period allowed in (c) of this subsection has expired or until the court has ruled on any challenge brought under (c) of this subsection.

(c) The person in possession of the data, materials, or documents to be disclosed by the director has twenty days from the receipt of the written request required under (b) of this subsection to petition the superior court of king county for injunctive relief. The court must limit or deny the request of the director, if the court determines that:

(i) The data, materials, or documents sought for disclosure are cumulative or duplicative, or are obtainable from some other source that is more convenient, less burdensome, or less expensive;

(ii) The production of the data, materials, or documents sought would be unduly burdensome or expensive, taking into account the needs of the director, the amount in controversy, limitations on the petitioner's resources, and the importance of the issues at stake; or

(iii) The data, materials, or documents sought for disclosure contain trade secret information that, if disclosed, could harm the petitioner.

(d) The director must reimburse reasonable expenses for the production of data, materials, or documents incurred by the person in possession of the data, materials, or documents to be disclosed.

(e) Requesting information under (b) of this subsection that may indicate that a taxpayer is under investigation does not constitute a disclosure of tax return or tax information under this section.

(5) Service of a subpoena issued by the court or under Chapter 2.15 BMC does not constitute a disclosure of return or tax information under this section. Notwithstanding anything else to the contrary in this section, a person served with a subpoena issued by the court or under Chapter 2.15 BMC may disclose the existence or content of the subpoena to that person's legal counsel.

(6) Any person acquiring knowledge of any return or tax information in the course of his or her employment with the city and any person acquiring knowledge of any return or tax information as provided under subsection (3) (d), (e), (f), (g), (h), (i), or (k) of this section, who discloses any such return or tax information to another person not entitled to knowledge of such return or tax information under the provisions of this section, is guilty of a misdemeanor. If the person guilty of such violation is an officer or employee of the city, such person must forfeit such office or employment and is incapable of holding any public office or employment in the city for a period of two years thereafter.

Section 3. Severability. Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4. Effective Date. This ordinance shall be effective on January 1, 2013.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF
ON THE 3rd DAY OF DECEMBER, 2012.**

CITY OF BURIEN

CITY OF BURIEN

/s/ Brian Bennett, Mayor

ATTEST/AUTHENTICATED:

/s/ Monica Lusk, City Clerk

Approved as to form:

/s/ Craig D. Knutson, City Attorney

Filed with the City Clerk: November 14, 2012

Passed by the City Council: December 3, 2012

Ordinance No. 576

Date of Publication: December 6, 2012